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## Governor Sean Parnell

### STATE OF ALASKA

September 21, 2010

The Honorable Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Jackson,

I am writing regarding the petition your agency received from six federally recognized tribes to initiate the Clean Water Act Section 404(c) process to prohibit or restrict discharges of dredged or fill materials, including mine tailings, within the watersheds that would include the Pebble Mine. I ask that you decline to invoke Section 404(c) at this time for reasons I will explain.

Let me begin by assuring you that we share a goal of protecting the waters, wetlands, fish, wildlife, fisheries, subsistence, and public uses of the Bristol Bay watershed. This area is home to bountiful natural resources and beauty including vast runs of sockeye and other pacific salmon that support immensely valuable commercial, subsistence, and sport fisheries. As Governor, I will do everything in my power to see that any new development fully protects the resource values of the area, and does not come at the expense of what we have today.

While I understand and share the petitioners' desire to protect the resources in Bristol Bay, I disagree that invoking the 404(c) process at this time would contribute to that goal. At best, it would waste agency and public time and resources. At worst, it would work against our mutual aims. I offer the following thoughts for your consideration.

*A premature 404(c) determination effectively prohibiting mining in the area would impinge on State land use planning authority.* Much of the land in the Bristol Bay area belongs to the State of Alaska. We have completed several iterations of land planning for these lands including exhaustive public outreach and deliberations to find a balance between competing interests and potential land uses. While we recognize that initiating the 404(c) process does not necessarily lead to a particular outcome, even the possibility that the process would conclude with a prohibition against mining over vast expanses of State lands causes us great concern. Federal preemption of traditional State land use authority is an alarming prospect to say the least. To start with, it would undo years of planning effort, but the effects do not stop there. There has been tremendous investment in the area based on the potential for mineral development. We cannot fathom the liability and legal challenges that could accompany

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